IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.4159/2005

Jakir Hussain

Versus

The Deputy Secretary and ors.

Date of Order : 15.7.2005

PRESENT

HON'BLE MR. JUSTICE R.P.VYAS

Mr. Shambhoo Singh, for the petitioner.

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The present writ petition under Article 226 of the constitution of India has been filed by the petitioner with a prayer that the impugned order of transfer dtd. 1.7.2005 (Annex.-3) may be quashed and set aside qua the petitioner.

The brief facts of the case are that the petitioner was initially appointed on the post of Gram Sewak on 6.10.1970 in Panchayat Samiti, Kherwada and posted at various places. In the month of August, 1990, the petitioner was transferred from Panchayat Samiti,

Kherwada to Panchayat Samiti, Dungarpur. Thereafter, in the month of August, 2002, the petitioner was transferred from Panchayat Samiti, Dungarpur to Panchayat Samiti, Bichhiwada and was posted at various places under the Panchayat Samiti, Bichhiwada. The petitioner was promoted to the post of Panchayat Prasar Adhikari, vide order dated 29.1.2004 and was posted from Panchayat Samiti, Railmagra to Panchayat Samiti, Dungarpur.

Thereafter, vide order dated 16.9.2004 (Annex.-2), the petitioner was transferred to Panchayat Samiti, Dungarpur. After 9 months, vide order dtd. 1.7.2005 (Annex.-3), the petitioner has been transferred to Zila Parishad, Rajsamand, on the basis of the desire of the M.L.A. Of the respondent No.4.

The main grievance of the petitioner is that the petitioner has been subjected to frequent transfer thrice in a year and the present transfer has been effected just in order to accommodate Shri Jagdish Joshi (respondent No.4). The petitioner was transferred from District Dungarpur to District Rajsamand on 16.9.2004 and after 9 months he has again been transferred from Rajsamand to Dungarpur. This is nothing but on arbitrary and malafide

action of the respondents to disturb the petitioner within a short period and therefore, the order dtd. 1.7.2005 (Annex.3) may kindly be quashed and set aside qua the petitioner.

Heard learned counsel for the petitioner, at admission stage and examined and scanned the material available on record.

It is axiomatic that if a transfer order has been made in violation of a statutory rule or regulation, it will be illegal.

In my considered opinion, the impugned order dtd. 1.7.2005 (Annex.3) has not been passed with ulterior motive and for malafide reasons. The petitioner has been transferred in administrative exigencies. Further more, there is no material on record to suggest that petitioner has been transferred on political ground, in order to accommodate Shri Jagdish Joshi (respondent No.4).

That apart, transfer is an incidence of service. An employee holding a transferable post cannot claim any vested right to work at a particular place for a considerable

time. It is the prerogative of the employer to transfer its employees in administrative exigencies and there is no malafide or ulterior motive in the transfer of the petitioner. In fact, the petitioner has been transferred on account of administrative exigencies.

For the reasons mentioned above, the present writ petition has no force and the same is hereby dismissed, at admission stage.

No order as to costs.

(R.P. VYAS)J.

Rm/